

HOUSE BILL REPORT

HB 1293

As Reported by House Committee On:
Technology, Energy & Communications

Title: An act relating to the excise taxation of new gas turbine electrical generation facilities.

Brief Description: Modifying the excise taxation of new gas turbine electrical generation facilities.

Sponsors: Representatives Morris, McCoy and Dunn.

Brief History:

Committee Activity:

Technology, Energy & Communications: 3/1/05 [DPS].

Brief Summary of Substitute Bill

- Imposes an additional state real estate excise tax on sales of any gas-fired generating facility built after the effective date of the act, that have received site certification from the Energy Facility Site Evaluation Council but are not yet constructed.
- Creates a sales and use tax exemption for new gas turbine electrical generation facilities on acquisitions of machinery and equipment used directly for the generation of electricity.

HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Morris, Chair; Kilmer, Vice Chair; Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Ericks, Hudgins, Nixon, P. Sullivan, Sump, Takko and Wallace.

Staff: Mark Matteson (786-7145).

Background:

Energy facility siting.

New major energy facilities are required to meet a number of requirements before being sited, constructed, and put into operation in Washington. For nonhydroelectric facilities, these requirements are overseen by the Washington State Energy Facility Site Evaluation Council (Council). The Council coordinates all of the evaluation and licensing steps for siting such

facilities in Washington. A preliminary site study may be done prior to starting the certification process to assess whether to proceed with an application. The Council is responsible for evaluating applications to ensure that all environmental and socioeconomic impacts are considered before a site is approved. After evaluating an application, the Council submits a recommendation to the Governor. If the Governor signs the Site Certification Agreement, the project may proceed.

Even if a project receives site certification, energy facility construction and ultimate placement into operation may not occur. A number of factors, including the expected economic return on investment, influence the decision to ultimately proceed with such a project. Currently, there are four projects for which the Council issued site certification several years ago but for which construction has not begun or has been suspended: the Northwest Regional Power Facility in Lincoln County; the Satsop Combustion Turbine Project in Elma; the Sumas Energy Generation Facility in Sumas; and the Wallula Power Project in Walla Walla County. Recently, the BP Cherry Point Cogeneration project in Whatcom County also received site certification.

Real estate excise tax.

The real estate excise tax is imposed on each sale of real property. Real property includes any interest in land or anything affixed to land. The state tax rate is 1.28 percent. Additional local rates are allowed. The combined state and local rate in most areas is 1.78 percent or less. The highest rate is 2.78 percent in the City of Friday Harbor.

The real estate excise tax applies when a sale occurs. A sale is defined as any transfer of the ownership of or title to real property, or any transfer of a controlling interest in a corporation or other entity that owns real property. A controlling is 50 percent or more of the voting power of the stock of a corporation, or 50 percent or more of capital, profits, or beneficial interest in a partnership, association, trust, or other entity.

Retail Sale and Use Taxes - Machinery and Equipment Exemption.

The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail. The tax is levied at a 6.5 percent rate by the state. Cities and counties may levy a local tax at a rate up to a maximum of 3.1 percent. Currently, local rates levied range from 0.5 percent to 2.4 percent. Sales tax is paid by the purchaser and collected by the seller.

The use tax is imposed on items used in the state that were not subject to the retail sales tax, and includes purchases made in other states and purchases from sellers who do not collect Washington sales tax. The state and local rates are the same as those imposed under the retail sales tax. Use tax is paid directly to the Department of Revenue (Department).

In 1995, following a study at the request of the Legislature by the Department concerning manufacturing activity in the context of the state tax structure, the Legislature enacted an exemption from the retail sales and use taxes for manufacturers for the purchase or acquisition

of machinery and equipment. However, utilities that generate electricity were specifically omitted from being eligible for the exemption.

Summary of Substitute Bill:

An additional state real estate excise tax at a rate of 0.25 percent is imposed on sales of any gas-fired generating facility built after the effective date of the act, that have already received site certification from the Council but are not yet constructed.

A sales and use tax exemption is created for new gas turbine electrical generation facilities on acquisitions of machinery and equipment used directly for the generation of electricity.

The entire act is void if any part of it is invalidated by a state or federal court.

Substitute Bill Compared to Original Bill:

Allows the sales and use tax exemption for machinery and equipment used directly in generating electricity from new gas turbine electrical generation facilities, built after the effective date, instead of those facilities that were previously permitted but not yet put into operation.

Applies the new real estate excise tax to only new gas electrical generating facilities that have already received site certification from the Council but are not yet constructed.

Makes a technical clarification to eliminate language that refers to personal property as opposed to real property.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect January 1, 2006.

Testimony For: None.

Testimony Against: None.

Persons Testifying: None.

Persons Signed In To Testify But Not Testifying: None.